

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7375

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RICKY PARKER,

Defendant - Appellant.

Appeal from the United States District Court for the Middle
District of North Carolina, at Durham. N. Carlton Tilley, Jr.,
Chief District Judge. (CR-98-35; CA-05-548)

Submitted: March 30, 2006

Decided: April 6, 2006

Before TRAXLER, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ricky Parker, Appellant Pro Se. Angela Hewlett Miller, OFFICE OF
THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Ricky Parker seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing Parker's motion for "a recommendation in support of his request for a certificate of appealability." The court construed this motion as a successive motion under 28 U.S.C. § 2255 (2000), and concluded that it lacked jurisdiction to consider it. Parker also appeals from the district court's order denying his subsequent motion to amend filed under Fed. R. Civ. P. 59(e).

The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Parker has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are

adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED